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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,908

03/15/2004

Martin Schamberg

PO-7955/HE-178

1492

157 7590 03/29/2007
BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

EXAMINER

COONEY, JOHN M

ART UNIT

PAPER NUMBER

1711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/800,908

Applicant(s)

SCHAMBERG ET AL.

Examiner

John m. Cooney

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's arguments filed 1-18-2007 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation "any filler" in line 10. The claims are confusing as to intent because it can not be determined what, if any, meaning is intended to be associated with the employment of the term "any" in its usage. Replacing "any" with "said" or "the" is suggested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiben et al.(5,789,457) in view of Sulzbach et al.(5,547,276), Davis et al.(5,527,462), and WO 02/04190.

Eiben et al. disclose apparatuses for the continuous production of polyurethane foam wherein vessels for introducing isocyanate, polyol, liquid carbon dioxide, and other

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additives (arrow 8) are provided for, a means for transporting the components to a main mixing component, a means mixing carbon dioxide with at least one of the reactive components prior to introduction to the main mixer, and a discharge body which includes at least one fine mesh screen of dimensions as claimed arranged downstream from the main mixer (see abstract, figures, description of figures, and column 1 line 6 – column 6 line 17, as well as, the entire document).

Eiben et al. differs from the claims in that means for introducing and treating filler are not particularly required. However, Sulzbach et al. discloses devices for controlling the mixing of fillers into the reactive materials in polyurethane synthesis operations for the purpose of achieving continuous mixing of metered filler and reactive material (see abstract, and column 2 line 65 – column 3 line 14, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the filler providing devices of Sulzbach et al. in the apparatuses provided for by Eiben et al. for the purpose of provisioning for the continuous mixing and introduction of filler in order to arrive at the apparatuses of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. Additionally, it is held that elements for treatment of the filler by filters for purpose of imparting their filtering effect is within the purview of the ordinary practitioner in the art, and mechanical self-cleaning filters such as those disclosed by Davis et al. (see the entire document) would have been obvious to one having ordinary skill in the art for the purpose of achieving in-process filter cleaning. Also, agglomerate reducers such as those disclosed by WO 02/04190 (see the entire document) are known to the art for purposes

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of enhancing material flow, and their employment in the apparatuses of Eiben et al. for the purpose of imparting this effect would have been obvious to one having ordinary skill in the art with the expectation of success in the absence of a showing of new or unexpected results.

Applicants' arguments have been considered. However, rejection is maintained. Examiner maintains the position that filtering components for the purpose of separating materials from a component as determined by the filter mesh size is a modification within the skill of the ordinary practitioner in the practice of polyurethane foam forming systems.

Although Eiben et al. does not provide a specific means for introducing and treating filler, it does provide a means for providing "additive" which encompasses "filler", and, additionally, Sulzbach et al. is maintained to be properly looked to for addressing the deficiencies of Eiben et al. pertaining to specifics of introducing and treating fillers.

Davis et al. is maintained to be properly looked to for deficiencies in Eiben et al. pertaining to claims requiring self-cleaning filters. Additionally, WO 02/04190 is maintained to be proper for providing for agglomerate reducing effects in fillers not provided for by Eiben et al. Also, applicants' claims do not differentiate their apparatuses from the combined teachings based on employment of an apparatus component defined by the claims which specifically filters the filler component before mixing with other ingredients. Invention is not seen to be evident in the pretreatment apparatus components as alleged and/or claimed.

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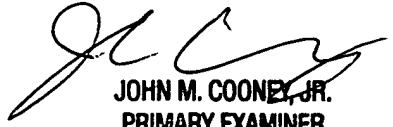
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN M. COONEY, JR.
PRIMARY EXAMINER
Group 1700